

FILED  
JAMES BONINI  
CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

08 MAY -6 PM 12:06

**2 : 08 cv - 431**

Civil Action No. 2 : 08 cv - 431

Judge **JUDGE SMITH**

Magistrate **MAGISTRATE JUDGE KEMP**

<b>FREDERICKA WAGNER,</b>	:
6851 Campcreek Road	:
Lucasville, Ohio 45648,	:
	:
<b>FLYING W FARMS,</b>	:
6851 Campcreek Road	:
Lucasville, Ohio 45648,	:
	:
<b>AMERICAN MASTIFF BREEDERS</b>	:
<b>COUNCIL,</b>	:
c/o Fredericka Wagner	:
6851 Campcreek Road	:
Lucasville, Ohio 45648,	:
	:
<b>CONNIE HAMMOND d/b/a</b>	:
<b>SYCAMORE CREEK KENNELS</b>	:
30403 Haynes Hollow Road	:
Londonderry, Ohio 45647,	:
	:
<b>DIANE ST. MARTIN d/b/a</b>	:
<b>HIDDEN ACRES FARM,</b>	:
13 Pleasant Street	:
Southampton, Massachusetts 01073,	:
	:
<b>BILL &amp; SANDY BERGER d/b/a</b>	:
<b>AMERICAN MASTIFF</b>	:
6610 Reside Road	:
Imlay City, Michigan 48444,	:
	:
<b>CAMERAN PRIDMORE d/b/a</b>	:
<b>CAPELL CREEK RANCH AND</b>	:
<b>KENNELS,</b>	:
1490 Capell Valley Road	:
Napa, California 94558,	:
	:
<b>JIM &amp; SANDY TAYLOR d/b/a</b>	:
<b>DEEPWOOD ACRES AMERICAN</b>	:
<b>MASTIFFS,</b>	:
59 Deepwood	:
North East, Maryland 21901,	:
	:

**JURY DEMAND ENDORSED  
HEREON**

**KERRY MIKALCHUS d/b/a** :  
**LAZY M AMERICAN MASTIFFS,** :  
109 Pleasant Street :  
Granby, Massachusetts 01033, :

**TAMMY VENKLER d/b/a/** :  
**MYSTIC AMERICAN MASTIFFS,** :  
53 Laurel Avenue :  
Birdsboro, Pennsylvania 19508, :

**KEVIN & MELANIE WARE d/b/a** :  
**ORION FARMS,** :  
1460 Keysville-Bruceville Road :  
Keymar, Maryland 21757, :

**Plaintiffs,** :

v. :

**CIRCLE W MASTIFFS,** :  
4110 Allen Road :  
Fallon, Nevada 89406, :

**JENNIFER WILLIAMSON,** :  
4110 Allen Road :  
Fallon, Nevada 89406, :

**CRAIG WILLIAMSON,** :  
4110 Allen Road :  
Fallon, Nevada 89406, :

**Defendants.** :

### COMPLAINT

For its Complaint against Defendants, Plaintiffs aver and allege as follows:

### FACTS

1. The American Mastiff is a recognized dog breed registered with the Continental Kennel Club.

2. The American Mastiff breed was created by Plaintiffs Fredericka Wagner and Flying W Farms.

3. Plaintiff, the American Mastiff Breeders' Council ("AMBC") is an organization of American Mastiff breeders charged with protecting, preserving, and promoting the true purebred American Mastiff. The AMBC sets the standards for the American Mastiff breed recognized by the Continental Kennel Club.

4. The standards for the American Mastiff breed can be found at <http://www.americanmastiffbreederscouncil.com/Standard%20of%20the%20Breed.htm>.

5. Defendants Jennifer and Craig Williamson own Defendant Circle W Mastiffs (collectively "Circle W"), a dog breeder that purports to breed and sell American Mastiffs.

6. Circle W advertises in interstate commerce that it breeds and sells American Mastiff breed dogs of the breed created by Fredericka Wagner and Flying W Farms and of whose standard is set by the AMBC.

7. In fact, Circle W does not breed and sell American Mastiff breed dogs of the breed created by Fredericka Wagner and Flying W Farms and of whose standard is set by the AMBC. In other words, some or all of the dogs it sells as and advertises as being of the American Mastiff breed are not American Mastiffs. Circle W has been selling dogs without a black mask, in direct contravention of the American Mastiff breed standard.

8. Circle W maintains a website that contains the aforementioned false assertions and advertises for sale dogs not complying with the American Mastiff breed standard. This website: <http://www.circlewmastiffs.com>, is maintained for Circle W's commercial gain.

9. As of May 5, 2008, the misleading information on Circle W's website was still present.

10. Thus, without privilege to do so, Circle W has misled the public into believing that it breeds and sells American Mastiff dogs when, in fact, it does not.

11. Thus, Circle W has falsely represented to others that the dogs it sells are of the type and breed covered by the standard set by the AMBC and recognized by the Continental Kennel Club.

12. Plaintiffs Fredericka Wagner, Flying W Farms, Connie Hammond d/b/a Sycamore Creek Kennels, Diane St. Martin d/b/a Hidden Acres Farm, Bill & Sandy Berger d/b/a American Mastiff, Cameran Pridmore d/b/a Capell Creek Ranch and Kennels, Jim & Sandy Taylor d/b/a Deepwood Acres American Mastiffs, Tammy Venkler d/b/a Mystic American Mastiffs, and Kevin & Melanie Ware d/b/a Orion Farms (collectively the "AMBC Breeders") are in the business of selling American Mastiff breed dogs of the breed created by Fredericka Wagner and Flying W Farms and of whose standard is set by the AMBC.

13. The AMBC Breeders all abide by the breed standard for the American Mastiff set by the AMBC and recognized by the Continental Kennel Club.

14. The AMBC Breeders and Fredericka Wagner have been harmed by Circle K's deliberate and misleading advertising and will continue to be harmed each day Circle K is able to claim that it sells American Mastiff breed dogs.

15. The AMBC Breeders and Fredericka Wagner are harmed by Circle K's deliberate and misleading sales of dogs not conforming with the American Mastiff breed standard and will continue to be harmed each day Circle K is able to claim that it sells American Mastiff breed dogs.

**PARTIES**

16. Plaintiff Fredericka Wagner resides at 6851 Campcreek Road, Lucasville, Ohio 45648.
17. Plaintiff Flying W Farms resides at 6851 Campcreek Road, Lucasville, Ohio 45648.
18. Plaintiff American Mastiff Breeders Council resides at 6851 Campcreek Road, Lucasville, Ohio 45648.
19. Plaintiff Connie Hammond d/b/a Sycamore Creek Kennels resides at 30403 Haynes Hollow Road, Londonderry, Ohio 45647.
20. Plaintiff Diane St. Martin d/b/a Hidden Acres Farm resides at 13 Pleasant Street, Southampton, Massachusetts 01073.
21. Plaintiffs Bill & Sandy Berger d/b/a American Mastiff reside at 6610 Reside Road, Imlay City, Michigan 48444.
22. Plaintiff Cameran Pridmore d/b/a Capell Creek Ranch and Kennels resides at 1490 Capell Valley Road, Napa, California 94558.
23. Plaintiffs Jim & Sandy Taylor d/b/a Deepwood Acres American Mastiffs reside at 59 Deepwood, North East, Maryland 21901.
24. Plaintiff Kerry Mikalchus d/b/a Lazy M American Mastiffs resides at 109 Pleasant Street, Granby, Massachusetts 01033.
25. Plaintiff Tammy Venkler d/b/a Mystic American Mastiffs resides at 53 Laurel Avenue, Birdsboro, Pennsylvania 19508.
26. Plaintiffs Kevin & Melanie Ware d/b/a Orion Farms reside at 1460 Keysville-Bruceville Road, Keymar, Maryland 21757.

27. Upon information and belief, Defendant Circle W Mastiffs is a Nevada corporation or corporate entity with its principal place of business at 4110 Allen Road, Fallon, Nevada 89406.

28. Upon information and belief, Defendant Jennifer Williamson resides at 4110 Allen Road, Fallon, Nevada 89406.

29. Upon information and belief, Defendant Craig Williamson resides at 4110 Allen Road, Fallon, Nevada 89406

**JURISDICTION AND VENUE**

30. This Court has federal question jurisdiction over this matter under 28 U.S.C. § 1331 and the Lanham Act, 15 U.S.C. § 1125.

31. This Court has personal jurisdiction over Defendants under Due Process and Ohio's Long Arm Statute in that defendants have transacted business directly related to the claims in this case in the state of Ohio.

32. Venue is proper in this Court under, without limitation, 28 U.S.C. §§ 1391(b)(2) and (c) in that Defendants are subject to personal jurisdiction in this district and a substantial part of the acts and omissions giving rise to Plaintiffs' claims occurred in this district.

**COUNT ONE**  
**LANHAM ACT — 15 U.S.C. §§ 1117–1125**

33. Plaintiffs restate paragraphs 1 through 32 as if fully rewritten herein.

34. The Lanham Act allows for actual damages, illegally gained profits, and the costs of the action when a party, such as Circle W, dilutes another's brand.

35. Circle W has, without privilege to do so, diluted the value of the American Mastiff breed and brand.

36. Circle W's claim that it sells American Mastiff breed dogs of the breed created by Fredericka Wagner and Flying W Farms and of whose standard is set by the AMBC, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, in violation of 15 U.S.C. § 1125(a).

37. Circle W's continued and unauthorized claim that it sells American Mastiff breed dogs of the breed created by Fredericka Wagner and Flying W Farms and of whose standard is set by the AMBC, is likely to cause mistake or deception to the readers of Circle W's website as to the quality of dog they will receive, in violation of 15 U.S.C. § 1125(a).

38. Circle W's advertisements and claims on its web site are in commerce in connection with the sale of goods and services.

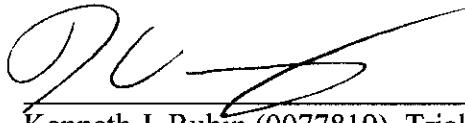
39. Circle W's willful and wrongful conduct has proximately caused and will continue to cause substantial injury to Plaintiffs' reputation and goodwill. The harm this wrongful conduct will cause Plaintiffs is both ongoing and irreparable.

40. Plaintiffs are thus statutorily entitled to actual damages, Circle W's profits, and the costs of this action.

41. Additionally, Plaintiffs are entitled to an injunction enjoining Circle W from further claiming that the dogs it sells are American Mastiff breed dogs of the breed created by Fredericka Wagner and Flying W Farms and of whose standard is set by the AMBC.

**WHEREFORE**, Plaintiffs demand: (a) actual statutory damages; (b) punitive damages; (c) an injunction enjoining Circle W; (d) prejudgment and post-judgment interest; (e) attorney fees; and (f) any other relief to which it may be entitled at law or in equity.

Respectfully Submitted,



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*Attorneys for Plaintiffs*

**JURY DEMAND**

Pursuant to Federal Rules of Civil Procedure Rule 38, Plaintiffs hereby demand a trial by jury as to all issues so triable in the captioned matter.



Kenneth J. Rubin, Trial Attorney